

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 513

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Kent L. Cravens

AN ACT

RELATING TO PUBLIC FINANCE; ENACTING THE TAXPAYER PROTECTION  
ACT; ESTABLISHING AN EXPENDITURE LIMITATION FORMULA;  
IMPLEMENTING A NEW SECTION OF ARTICLE 4 OF THE CONSTITUTION OF  
NEW MEXICO.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 6 NMSA 1978 is  
enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 4 of this  
act may be cited as the "Taxpayer Protection Act"."

Section 2. A new section of Chapter 6 NMSA 1978 is  
enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Taxpayer  
Protection Act:

A. "excess revenue" means unexpended and

underscored material = new  
[bracketed material] = delete

1 unencumbered state revenue in the general fund on June 30 of a  
2 fiscal year in excess of the expenditure limit set annually by  
3 the legislature pursuant to the Taxpayer Protection Act;

4 B. "expenditure limit" means the limit imposed on  
5 state revenue in each fiscal year pursuant to the Taxpayer  
6 Protection Act; and

7 C. "fiscal year" means the state fiscal year  
8 beginning on July 1 of each year."

9 Section 3. A new section of Chapter 6 NMSA 1978 is  
10 enacted to read:

11 "[NEW MATERIAL] DETERMINATION OF EXPENDITURE LIMIT.--

12 A. Beginning in the second session of the forty-  
13 ninth legislature and in each regular session of the  
14 legislature thereafter, the legislature shall set an  
15 expenditure limit for each subsequent fiscal year prior to  
16 adopting a budget for that upcoming fiscal year that shall  
17 equal the expenditure limit in the prior fiscal year plus:

18 (1) the percent increase in the population of  
19 New Mexico in the most recent prior calendar year for which  
20 there is population data available, as estimated annually by  
21 the bureau of business and economic research of the university  
22 of New Mexico, multiplied by the prior fiscal year's  
23 expenditure limit; plus

24 (2) the product of three and six-tenths  
25 percent multiplied by the prior fiscal year's expenditure

.171051.1

underscored material = new  
[bracketed material] = delete

1 limit.

2 B. For fiscal year 2010, the legislature shall set  
3 an expenditure limit during the first session of the forty-  
4 ninth legislature by adding to the expenditures made in fiscal  
5 year 2008 an amount equal to:

6 (1) the percent increase in the population of  
7 New Mexico in the most recent prior calendar year for which  
8 there is population data available, as estimated annually by  
9 the bureau of business and economic research of the university  
10 of New Mexico, multiplied by the total expenditures from the  
11 general fund made in fiscal year 2008; plus

12 (2) the product of three and six-tenths  
13 percent multiplied by the total expenditures from the general  
14 fund made in fiscal year 2008."

15 Section 4. A new section of Chapter 6 NMSA 1978 is  
16 enacted to read:

17 "[NEW MATERIAL] EXCESS REVENUE--DISTRIBUTION--REBATES.--  
18 Money in the general fund in fiscal year 2010 or any subsequent  
19 fiscal year in excess of the expenditure limit set annually by  
20 the legislature for that fiscal year pursuant to this section  
21 shall be distributed in the following manner:

22 A. sixty percent of the unexpended or unencumbered  
23 balance in the general fund on June 30 of each fiscal year  
24 exceeding the expenditure limit for that fiscal year shall be  
25 deposited by the state treasurer in the severance tax permanent

.171051.1

underscored material = new  
[bracketed material] = delete

1 fund; and

2 B. forty percent of the unexpended or unencumbered  
3 balance in the general fund on June 30 of any fiscal year  
4 exceeding the expenditure limit for that fiscal year shall be  
5 returned by the secretary of taxation and revenue on an equal  
6 per capita basis as an expenditure limit rebate to persons  
7 filing personal income tax returns for the calendar year in  
8 which the excess is determined."

9 Section 5. A new section of the Income Tax Act is enacted  
10 to read:

11 "[NEW MATERIAL] EXPENDITURE LIMIT REBATES.--

12 A. Except as otherwise provided in this section, a  
13 resident who files an individual New Mexico income tax return  
14 and who is not a dependent of another individual is entitled to  
15 an expenditure limit rebate in taxable years beginning on or  
16 after January 1, 2010, in an amount determined pursuant to  
17 Section 4 of the Taxpayer Protection Act, even if the resident  
18 has no income taxable pursuant to the Income Tax Act.

19 B. The rebate due a taxpayer shall be first used to  
20 offset income taxes owed to the state by the taxpayer; or if  
21 the taxpayer is due a refund, the rebate shall be added to the  
22 refund due to the taxpayer.

23 C. For the purposes of this section, one rebate may  
24 be claimed by each taxpayer filing an income tax return who  
25 claims to be a New Mexico resident over eighteen years of age

.171051.1

underscoring material = new  
[bracketed material] = delete

1 by January 1 of the taxable year. A husband and wife filing  
2 jointly may claim one rebate each, provided that each spouse  
3 claiming a rebate is over the age of eighteen on January 1 of  
4 the taxable year. A husband and wife filing separately may  
5 each claim one rebate. A husband and wife who have filed a  
6 joint return where only one individual is a New Mexico resident  
7 shall claim only one rebate for the spouse claiming New Mexico  
8 residency.

9 D. The department shall not rebate funds pursuant  
10 to this section to a person who:

11 (1) was an inmate of a public institution for  
12 more than six months during the taxable year for which the  
13 rebate is being made; or

14 (2) was not a resident of New Mexico on the  
15 last day of the taxable year for which the rebate is being  
16 made.

17 E. The secretary may adopt rules necessary to  
18 administer the provisions of this section."

19 Section 6. CONTINGENT EFFECTIVE DATE.--The effective date  
20 of the provisions of this act is January 1 following adoption  
21 by the electorate of an amendment to the constitution of New  
22 Mexico, entitled "A JOINT RESOLUTION PROPOSING AN AMENDMENT TO  
23 ARTICLE 4 OF THE CONSTITUTION OF NEW MEXICO TO LIMIT THE  
24 LEGISLATURE'S ABILITY TO INCREASE STATE EXPENDITURES".